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Abby *and other* Church-Lands, *not yet assured to such Possessors as are* Roman Catholicks; *Dedicated to the Nobility and Gentry of that Religion.*

SInce it is universally agreed on, that so great a matter as the total alienation of all the *Abby-Lands*, &c. in *England*, can never be made legal and valid; and such as will satisfie the reasonable doubts and scruples of a religious and conscientious Person, except it be confirm'd by the supreme *Authority* in this *Church*; its evident that the Protestants, who assert the Church of *England* to be *autokephalos*, and such as allows of no Foreign Jurisdiction or Appeals, having had these Lands confirmed to them by the King as Head of the Church, the Convocation as the Church representative, and by the King and Parliament as the supreme Legislative Power in this Realm, have these Alienations made as vallid to them as any Power on Earth can make them: but the Members of the Church of *Rome*, who maintain a Foreign and Superiour Jurisdiction, either in a general Council, or in the Bishop of *Rome*, or both together, cannot have these Alienations confirm'd to them, without the consent of one or both of these Superiour Jurisdictions. If therefore I shall make it appear, that these Alienations in *England* were never confirm'd by either, I do not see how any *Roman-Catholick* in *England* can, without Sacriledge, retain them and his Religion together.

As to the first of these, since there hath been no Council from the first Alienation of *Abby-Lands* in *England* to this day, that pretends to be general, but that of *Trent*, we need only look into that for the satisfaction of such *Roman Catholicks* as esteem a general Council above the Bishop of *Rome*: And I am sure that that Council is so far from confirming these *Abby-Lands* to the present Possessors, that it expresly denounceth them accursed that detain them. Sess. 22. Decret. de Ref. Cap. 11. *Si quem. &c. If Covetousneß, the root of all evil, shall so far posseß any Person whatsoever, whether of the Clergy or Laity, though he be an Emperour or a King, as that by force, fear, or fraud, or any art or colour whatsoever, he presume to convert to his own use and usurp the Jurisdiction, Goods, Estates, Fruits, Profits ro Emoluments whatsoever, of any Church or any Benefice, Secular or Regular, Hospital or Religious House; or shall hinder that the profits of the said Houses be not received by those to whom they do of right belong, let him lie under an* Anathema *till the said Jurisdiction, Goods, Estates, Rents and Profits, which he hath posseßed and envaded, or which have come to him any manner of way, be restored to the Church; and after that have Absolution from the Bishop of* Rome. So great a Terrour did this strike into the *English* Papists that were possessors of Church-Lands, against whom this *Anathema* seems particularly directed; That many of the zealous

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Papists began to think of Restitution, and Sir *William Peters*, notwithstanding his private Bull of Absolution from Pope *Julius* the Fourth, was so much startled at it, as that the very next year he endowed eight new Fellowships in *Exceter* College in *Oxford*. Again, the same Council, *Sess.* 25. *Decret. de Ref. c.* 20. *Cupiens Sancta Synodus*, &c. *Decreeth and commandeth, that all the Holy Canons, and general Councils, and Apostolick Sanctions, in favour of Ecclesiastical Persons, and the Liberties of the Church, and against those that violate them be exactly observed by every one; and doth farther admonish the Emperor, Kings, Princes, and all Persons of what estate soever, that they would observe the Rights of the Church as the commands of God, and defend them by their particular Patronage, nor suffer them to be invaded by any Lords or Gentlemen whatsoever; but severely punish all those who hinder the Liberties, Immunities and Jurisdictions of the Church; and that they would imitate those excellent Princes, who by their Authority and Bounty encreased the Revenues of the Church, so far were they from suffering them to be invaded, and in this let every one sedulously perform his part*, &c. And now after so full and express Declaration of the Council of *Trent*, I do not see how any of those *Roman Catholicks*, who esteem a general Council to be the supreme Authority in the Church, and receive the *Trent* Council as such, can any way excuse themselves in point of Conscience from those heavy Curses that are there denounc'd against all those that detain Church-Lands, especially since the Papists themselves vehemently accuse King *Henry* the Eighth for sacralegiously robbing of religious Houses, and seising of their Lands; a great part of which Lands are to this very day possess'd by Papists. Now though there may be some Plea for the Popes Authority, in the intrim of a general Council, and in such things wherein they have made no determination; yet in this matter there is no colour for any such pretences, since the Council of *Trent* was actually assembled within few years after these Alienations, and expresly condemned the possessors of *Abby-Lands*, and after all this was all confirm'd and ratified by the Pope himself in his *Bulla Super conf. gen. Concil. Trid. A. D.* 1564. And tho' we have here the Judgment of the infallible See, as to this matter in the Confirmation of the *Trent Council*, yet because there be some that magnifie the Popes extravagant and unlimited power over the Church, and pretend that he confirm'd the *Abby-Lands* in *England* to the Lay-possessors of them, I shall shew. Secondly, That the Pope neither hath nor pretends to any such Power, nor did ever make use of it in this matter under debate; only I shall premise, that whereas some part of the Canon-Law seem to allow of such particular alienations as are made by the Clerks and Members of the Church, with the consent of the Bishop, yet such free consent was never obtained in *England*, and as to what was done by force, fraud and violence, is of so little moment as to giving a legal Title, that even the alienations that were made by *Charles Martell*, who is among the Papists themselves as infamous for Sacrilege as King *Henry* the Eighth, yet

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even his Acts are said to be done by a Council of Bishops as is acknowledg'd by Dr. *Johnston* in his assurance of *Abby-Lands*, p. 27. I shall proceed to shew, First, That the Pope hath no such power as to confirm these Alienations, and this is expresly determined by the infallible Pope *Damasus* in the Canon-Law. *Cauf.* 12. 9. 2. c. 20. *The Pope cannot alienate Lands belonging to the Church in any manner, or for any necessity whatsoever, both the buyer and the seller lie under an* Anathema *till they be restored, so that any Church-man may oppose any such Alienations, and again require the Lands and Profits so alienated.* So that here we have a full and express Determination of the infallible See. And tho in answer to this it is urg'd by Dr. *Johnston*, that this Canon is with small difference published by *Binius* in the Councils, and so as to confine it to the suburbicacy Dioceſs of *Rome*; yet that this Answer is wholly trivial, will appear.

First, Because if the Bishop of *Rome* hath no Authority to confirm such alienations in his own peculiar Dioceſs where he hath most power, much less can he do it in the Provinces where his power is less.

Secondly, That in all Eccleſiastical Courts of the Church of *Rome*, it is not *Binius*'s Edition of the Councils, but *Gratian*'s Collection of Canons, that is of Authority, in which Book these words are as here quoted.

Thirdly, Since this Book of the Popes Decree hath been frequently reprinted by the Authority and Command of several Popes, and constantly used in their courts; this is not to be look'd upon as a Decree of Pope *Damasus* only, but of all the succeeding Popes, and in the opinion of F. *Ellis*, (*Sermon before the King, Decem.* 5. 1686 *p.* 21.) what is inserted in the Canon-Law is become the Judgment of the whole Church.

Fourthly, It's absolutely forbid by Pope *Gregory* the Thirteenth, in his Bull prefixed before the Canon-Law (*A.D.* 1580) for any one to *add, change, or invert any thing in that Book.*

So that according to this express Determination in the Popes own Law the Bishops of *Rome* have no power to confirm any such Alienations as have been made in *England*, and agreeable to all this Pope *Julius* the Fourth, (the very Person that is pretended to have confirm'd these Alienations) declar'd to our *English* Ambassodors that were sent upon that Errand; *That if he had power to grant it, he would do it most readily, but his Authority was not so large.* *F. Pauls H.* of Council of *Trent*, *Lond.* *A.D.* 1629. p. 392. And therefore all Confirmations from the Bishop of *Rome*, are already prejudg'd to be invallid, and of no force at all.

Secondly, No Bishop of *Rome* did ever confirm them. The Breve of Pope *Julius* the Third, which gave Cardinal *Pool* the largest powers towards effecting this, had this express limitation, *Salvo tamen in his, quibus propter rerum magnitudinem & gravitatem hæc Sancta Sedes merito tibi videritur consulenda, nostro & prefatæ Sedis beneplacito & conformatione*, i. e. *Saving to us in these matters (in which by reason of their weight and greatness this holy See may justly seem to you, that of right it ought*

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to be consulted) *the good pleasure and confirmation of us and of the holy See*, which is the true English to that Latin, and that this whole Kingdom did then so understand these words, is evident from the three Ambassadors that were sent to *Rome* the next Spring, *viz.* Viscount *Montecute*, Bishop of *Ely*, and Sir *Edward Carn*, these being one to represent every State of the Kingdom,) to obtain of him a Confirmation of all those Graces which Cardinal *Pool* had granted. *Burnets H. Ref. p.* 2. *f.* 300. So that in the esteem of the whole Nation, what the Cardinal had done was not vallid without the Confirmation of the Pope himself. Now this Pope *Julius*, and the next *Marcellus* both dyed before there is any pretence of any Confirmation from *Rome*; but this was at length done by Pope *Paul* the Fourth, is pretended, and for proof of it three things are alleged, First. The Journals of the House of Commons where are these words, *After which was read a Bill from the Popes Holiness, confirming the doing of my Lord Cardinal, touching the assurance of Abby-Lands, &c.* Secondly, a Bull of the same Pope to Sir *Will. Peters*. Thirdly, The Decrees of Cardinal *Pool*, and his Life by *Dudithius*: To all which I answer.

First, That its confess'd on all hands, that there is no such Bull or Confirmation by Pope *Paul* the Fourth, to be any where found in the whole World, not any Copy or Transcript of it, not in all the *Bullaria*, nor our own Rolls and Records, tho it be a matter of so great moment to the Roman Catholicks of *England*, and what cannot be produced may easily be denied, Nor can it be imagin'd that a Journal of Lay-persons that were parties concerned, or a private Bull to Sir. *Will. Peters*, or some hints in the Decrees and Life of the Cardinal will be of any moment in a Court at *Rome*, whensoever a matter of that vast consequence, as all the *Abby-Lands* in *England* shall come to be disputed, especially if it be observed, that this very Journal of the house of Commons is no publick Record, but *hath past through private hands, hath been corrupted and defaced, and that in Passages of the greatest moment*, as are the words of *W. Hakewell* Esq; in his Observation upon them 70 Years since, printed *A. D.* 1641. And whereas the Journals of the House of Lords are true Records, and kept by their proper Officer; there is not one word to be found of any such confirmation.

Secondly, If there ever was any such Bull it had this limitation in it, that the Possessors of such Lands should bestow them all on Colleges, Hospitals, parrochial Ministers, or other such like spiritual Uses; and this I prove.

First, Because the famous Instances that are usually given of the Popes Alienations of Church Lands, were only a changing them from one religious Use to another. Thus when Pope *Clement* the Fifth, *A. D.* 1307, suppress the *Knights-Templars* in this Nation, and seiz'd all their Lands and Goods, he gave them all to the Hospitallers of St. *John* of *Jerusalem*, and that was ratified in Parliament, 17. *Edw.* Second; which Act sets forth, *That tho those Lands were escheated to the Lords of the Fee by the said Dissolution, yet it was not lawful to detain them.* When Pope

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Clement the Seventh, *A.D.* 1528, gave Cardinal *Woolsey* a Power to ſurpreſs ſeveral Monaſteries; he was to transferr all their Goods and Poſſeſſions to his Collegiate Church at *Windſor*, and to Kings College in *Cambridge*; and when the ſame Pope gave the ſame Cardinal many other Religious Houſes, it was for the endowing *Chriſt-Church* in *Oxford*, and his College in *Ipſwich*: And to name no more, when Pope *Alexander* the Seventh, *A. D.* 1656. ſuppreſs'd the Order of the *Fratres Cruciferi*, he diſpoſed of all their Houſes, Farms and Rights to ſuch uſes and pious works as he thought fit. *Vide Bullar. Ludg. Vol. Ult. Fol.* 220.

Secondly, When this very Pope was attended with the Engliſh Ambaſſadors that came to his Confirmation, the Pope found fault with them, *That the Church-yards were not reſtored*, ſaying, *that it was by no means to be tolerated, and that it was neceſſary to render all even to a Farthing, becauſe the things that belong to God can never be apply'd to humane uſes, and he that withholdeth the leaſt part of them is in continual ſtate of Damnation; that if he had power to grant them he would do it moſt readily, --- but his authority was not ſo large as that he might prophane the things that are dedicated to God; and let* England *be aſſur'd that this would be an* Anathema, *&c.* F. *Pauls H.* of the *Council* of *Trent*, p. 392. *Sleidani Com.* p. 779. And all this was ſaid by the Pope within four Months of the pretended Confirmation.

Thirdly, The private Bull to Sir *W. Peters* bears date within two Months after the pretended Confirmation, *vide* Sir *W. Dugdales Eccl. Col. Fol.* 207, the Title of which Bull is this, The *Bull of* Paul *the Fourth Biſhop of* Rome, *in which he confirms to Sir* W. Peters *all and ſingular the Sales of ſeveral Mannors, &c. ſometimes belonging to Monaſteries, which the ſaid Sir* W. Peters *is ready to aſſign and demiſe to ſpiritual uſes.* Then follows the Bull it ſelf, which ſaith, *That this Confirmation was humbly deſired from us, and that there were reaſonable cauſes to perſwade it*, viz. *a Petition exhibited by the ſaid Sir* W. Peters, *that the Mannors, &c. belonging to certain Monaſteries, and ſold to him by King* Henry *the Eighth, which he is ready to aſſign and demiſe to ſpiritual uſes, may be approved and confirmed to him; wherefore the ſaid Pope doth acquit and abſolve him, being inclined by the ſaid Supplications, &c. By which Bull Sir* W. Peters *had no power given him to keep thoſe Lands or diſpoſe of them to his Heirs, but only to diſtribute them to ſuch religious uſes as he thought beſt. Now it is a moſt implorable thing, that Sir* W. Peters *ſhould petition the Pope for a limited Diſpenſation, if the whole Nation, as is pretended, had been abſolutely diſpenc'd with but two Months before, without any limitation at all: So that either there was no ſuch general Confirmation, or elſe it was limited with the ſame reſtrictions as that to Sir* W. Peters, *viz. to beſtow them upon ſpiritual Uſes. And this is the only probable Reaſon why in* England *this Bull is wholly ſuppreſs'd and loſt.* In confirmation of this, it may be obſerved, that *Cardinal Pool*, notwithſtanding his Diſpenſation, earneſtly exhorted all Perſons by the Bowels of Chriſt Jeſus, that not being unmindful of their Salvation, they would at leaſt out of their Eccleſiaſtical Goods take care to encreaſe the Endowments

of Parsonages and Vicarages, that the Incumbents may be commodiously and honestly maintain'd according to their Quality and Estate, whereby they may laudibly exercise the cure of Souls, and support the incumbent Burthens, and farther urg'd the Judgments that fell upon *Balthazar*, for converting the holy Vessels to prophane uses.

Fourthly, Queen *Mary*, who best understood what had been done, after the time of this pretended Confirmation from the Pope, restored all the Church-Lands that were then in the Crown, saying, *That they were taken away contrary to the Law of God and of the Church, and therefore her Conscience did not suffer her to detain them*, &c. When she gave them to the Pope and his Legate to dispose of to the Honour of God, &c. she said, *She did it because she set more by the Salvation of her Soul than Ten such Kingdoms.* Heylins H. Ref. p. 235. And to this Act of Restitution, she was vehemently press'd by the Pope and his Legate. F. *Pauls* H. of the C. of *Trent*, p. 393. *Dudithius in vita poli. p.* 32. And these things thus restored by the Queen, were disposed of by the Legate to several Churches, *Dudithius, ib.* From all which it's evident, that neither the Pope, nor his Legate, nor Queen *Mary* knew of any such Confirmations of these Alienations as would quiet the Conscience without restoring them to spiritual uses.

Fifthly, Queen *Mary*, not only did so her self, but press'd it vehemently upon her Nobles and Parliament, that they would make full Restitution, *Heylin. p.* 237. *Sleidan. p.* 791. and several of them, as Sir *Thomas Pope*, Sir *William Peters*, &c. who had swallowed the largest morsels of those Lands, did make some sort of Restitution, tho not to the Abbies themselves, yet to Colleges and Religious Uses.

Sixthly, This very Pope *Paul* the Fourth, published a Bull, in which he threaten'd Excommunication to all manner of Persons as kept any Church Lands to themselves, and to all Princes, Noblemen, and Magistrates, that did not forthwith put the same in Execution. *Heylins Hist. Ref.* p. 238. So that by a new Decree he retrieved all those Goods and Ecclesiastical Revenues which had been alienated from the Church, since the time of *Julius* the Second. *Rycauts Contin.* p. 112. So improbable a story is it, that this Pope confirm'd these Alienations in *England.* And whereas Dr. *Johnston*, p. 173. hath these words; *Mr.* Fox *saith, the Pope published a Bull in print against the restoring of Abby-Lands, which Dr.* Burnet *affirms also, Ap. Fol.* 403. It is notoriously false, they both asserting the contrary; Dr. *Burnets* Words in that very place are these: *The Pope in plain terms refused to ratifie what the Cardinal had done, and soon after set out a severe Bull, cursing and condemning all that held any Church-Lands.*

Seventhly and lastly, The succeeding Popes have been clearly of this opinion. Pope *Pius* the Fourth, who immediately succeeded this *Paul*, confirm'd the *Council* of *Trent*, and therein damned all the detainers of *Church-Lands*; and tho he was much importun'd to confirm some Alienations made by the King of *France* to pay the debts of the *Crown*, yet he absolutely refus'd it, F. *Pauls*

Pauls H. C. Trent. p. 713. Pope *Innocent* the Tenth, first protested against the Alienations of *Church-Lands* in *Germany*, that were made at the great Treaty of *Munster* and *Osnaburgh*, *A. D.* 1648. and when that would not do, by his Bull, *Nov.* 26. in the very same Year, damns all those that should dare to retain the *Church-Lands*, and declares the Treaty void. *Instrumentum pacis*, &c. *& Innocentii* 10 *me declaratio nullitatis Artic.* &c. and all their late Popes in the *Bulla cœnæ* do very solemnly *Damn and Excommunicate all those who usurp any Jurisdiction, Fruits, Revenues, and Emoluments belonging to any Ecclesiastical Person upon account of any Churches, Monasteries, or other Ecclesiastical Benefices, or who, upon any occasion or cause, Sequester the said Revenues without the express leave of the Bishop of* Rome, *or others, having lawful power to do it*, &c. And tho upon *Good-Friday* there is published a general Absolution, yet out of that are expresly excluded all those who possess any *Church-Lands* or *Goods*, who are still left under the sentence of Excommunication. *Toleti Instr. Sacerd.* and his *Explicatio casuum in Bulla cœnæ Dni reserva.*

From which considerations it's evident, that it never was the design of the Pope to confirm the *English Church Lands* to the Lay-possessors, but that he always urg'd the necessity of restoring of them to religious uses; in order to which, the Papists prevailed to have the statute of *Mortmain* repealed for 20 Years. In Queen *Elizabeths* Reign the factious Party that was manag'd wholly by Romish Emissaries, demanded to *have Abbies and such religious Houses restored for their Use, and* A. D. 1585, *in their Petition to the Parliament, they set it down as a resolute Doctrine, that things once dedicated to Sacred Uses ought so to remain by the Word of God for ever, and ought not to be converted to any private use*, *Bishop* Bancrofts *Sermon at p. c. A. D.* 1588. *p.* 25. And that the *Church* of *Rome* is still gaping after these Lands, is evident from many of their late Books, as the Religion of *M. Luther*, lately printed at *Oxford*, p. 15. *The Monks wrote Anathema upon the Registers and Donations belonging to Monasteries; the weight and effect of which Curses are both felt and dreaded to this day.* To this end, the *Monasticon Anglicanum* is so diligently preserved in the *Vatican*, and other Libraries in Popish *Countries*; and especially this appears from the obstinate refusal of this present Pope to confirm these Alienations, tho it be a matter so much controverted, and which would be of that vast Use towards promoting their Religion in this Kingdom.

If therefore the Bishops of *Rome* did never confirm these Alienations of *Church Lands*, but earnestly and strictly required their Restitution; if they have declared in their Authentick *Canons*, that they have no power to do it, and both they and the last general *Council* pronounce an heavy *Curse* and *Anathema* against all such as detain them: Then let every one that possesseth these Lands, and yet owns either of these foreign Jurisdictions, consider, that here is nothing left to excuse him from Sacriledge, and therefore with his Estate he must derive a curse to his Posterity. There is scarcely any Papist but that is forward to accuse King *Henry* the 8*th* of Sacriledge, and yet never reflects upon

on himself who quietly possesseth the Fruits of it, without Restitution, either let them not accuse him, or else restore themselves. Now whatever opinions the Papists may have of these things in the time of health, yet I must desire to remember what the Jesuits proposed to *Cardinal Pool* in Dr. *Pary's* Days, viz. *That if he would encourage them in* England, *they did not doubt but that by dealing with the Consciences of those who were dying, they should soon recover the greatest part of the Goods of the Church.* Dr. *Burnets* Hist. Vol. 2. p. 328. Not to mention that whensoever the Regulars shall grow numerous in *England*, and by consequence burthensom to the few Nobility and Gentry of that perswasion, they will find it necessary for them to consent to a Restitution of their Lands, that they may share the burthen among others. For so vast are the burthens and payments that that Religion brings with it, that it will be found at length an advantagious Bargain to part with all the *Church Lands* to indemnifie the rest. And I am confident that the Gentry of *England* that are Papists, have found greater burthens and payments since their Religion hath been allow'd, than ever they did for the many years it was forbid; and this charge must daily encrease so long as their *Clergy* daily grows more numerous, and their few *Converts* are most of them of the meanest Rank, and such as want to be provided for: And that it's no easie matter to force *Converts*, may appear from that excellent Observation of the great Emperor *Charles* the Fifth, who told Queen *Mary*, *That by endeavouring to compel others to his own Religion, he had tired and spent himself in vain, and purchas'd nothing by it, but his own dishonour.* Card. *Pool* in *Heylins* Hist. Ref. p. 217. And to conclude this Discourse, Had the Act of Pope *Julius* the Third by his Legate *Cardinal Pool*, in confirming of the Alienation of *Church Lands* in *England*, been as vallid as is by some pretended? yet what shall secure us from an Act of Resumption? that very Pope after that pretended grant to *Cardinal Pool*, publish'd a Bull, in which he excommunicated all that kept *Abby-Lands* or *Church-Lands*, *Burnets* Hist. Vol. 2. p. 309. by which all former Grants, had there been any, were cancell'd. His Successor, Pope *Paul* the Fourth, retrieved all the Goods and Ecclesiastical Revenues that had been alienated from the *Church*, since the time of *Julius* the Second, and the chief Reasons that are given why the Popes may not still proceed to an Act of Resumption of these Lands in *England*, amount only to this, That they must stay for a fair Opportunity, when it may be done without disturbing the Peace of the Kingdom. From all which it's evident, that the detaining of *Abby-Lands* and other *Church-Lands* from the Monks and Friars, is altogether inconsistent with the Doctrine and Principles of the *Romish* Religion.

FINIS.